

EXHIBIT B

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

City of Port Isabel, et al.

Petitioners

v.

Federal Energy Regulatory Commission,

Respondent.

No. 23-1174

**DECLARATION OF RIO GRANDE LNG TERMINAL
PROJECT DIRECTOR ALEX THOMPSON**

I, Alex Thompson, of full age, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am the Project Director for the Rio Grande Liquefied Natural Gas (“LNG”) Terminal Project (“Project”) being constructed by Rio Grande LNG LLC (“Rio Grande”) in an industrially zoned area along the northern shore of the Brownsville Ship Channel in Brownsville, Texas.

2. I have personal knowledge of the facts in this Declaration

3. I make this declaration in support of the Joint Opposition to Motion for Stay filed in the United States Court of Appeals in the District of Columbia Circuit,

which seeks among other things to halt construction activities in support of the Project.

4. The Project represents an \$18.4 billion investment, and requires a very careful sequence of complex developmental steps. Halting construction now, even only temporarily, would seriously hamper the development of the terminal, increase the environmental impacts of construction, which have been mitigated to environmentally acceptable levels, and impose very substantial costs and delays on Rio Grande that could threaten the entire project.

5. Rio Grande filed an application with FERC on July 24, 2023, for approval to begin construction on a levee in support of the terminal. We received a notice to proceed on November 8, 2024. The application and notice to proceed were publicly filed documents.

6. In July 2023, initial site preparation of the Rio Grande Project commenced. Site preparation activities included delivery of construction equipment, installation of environmental and erosion controls, land clearing and grading, setting up of temporary facilities, construction of the temporary water barge offloading area, production deep mixing method (“DMM”) activities which are approved by FERC, development and improvement of onsite construction roads, and development of laydown yards. *See* Rio Grande LNG Monthly Status Report Nos. 44 (filed July 31, 2023), 45 (filed August 31, 2023), 46 (filed Sept. 29, 2023), 47

(filed Oct. 31, 2023), Docket No. CP16-454-000. On August 30, 2023, FERC—via its contractor Tetra Tech—performed a “construction inspection” of the Rio Grande and Rio Bravo Project site, and a full record of this inspection was filed publicly in the Rio Grande docket at FERC on September 25, 2023, describing significant physical activities already under way on the Project site. *See* Field Inspection Report for Rio Grande LNG Terminal Project et al. (Sep. 25, 2023) (Accession No. 20230925-3052), Docket No. CP16-454-000.

7. Since November 2023, the Rio Grande Project has fully commenced construction, as approved on the record by FERC Staff and detailed in publicly available filings. Construction activities to date include:

a. November 2023: Began installation and testing on concrete test piles; shoreline reclamation; completion of Pioneer material offloading facility (“MOF”) dredging and two temporary access driveways; improved onsite laydown yards; continuation of the State Highway 48 modification project, and road and drainage improvements. *See* Letter to Rio Grande LNG, LLC granting the July 24 and 25, 2023 request to proceed with construction of Levee and Material Offloading Facility (Nov. 8, 2023) (Accession No. 20231108-3007), Docket No. CP16-454-000; Rio Grande LNG Monthly Status Report No. 48 (filed Nov. 30, 2023), Docket No. CP16-454-000. On November 16, 2023, FERC again conducted a construction inspection of the

Rio Grande Project site, noting significant activities underway, including installation of a silt fence, installation of a berm, excavation of drainage ditches, soil mixing by excavators, installation of jersey barriers, and stabilization of access roads. *See* Field Inspection Report for Rio Grande LNG Terminal Project et al. (Jan. 23, 2024) (Accession No. 20230925-3052), Docket No. CP16-454-000.

b. December 2023: Continued reclamation, stabilization, and restoration of the shoreline; continued building and improving of onsite laydown yards and work pads to support construction; continued buildout and improvement of onsite construction roads; and initiation of construction of the facility perimeter levee. *See, e.g.*, Rio Grande LNG Monthly Status Report No. 49 (filed Jan. 2, 2024), Docket No. CP16-454-000.

e. January 2024: continued work in Train 1 area; continued reclamation, stabilization, and restoration of the shoreline; continued building of laydown yards, work pads, and construction roads; began production pile-driving program. *See, e.g.*, Letter to Rio Grande LNG, LLC granting the December 7 and 8, 2023 requests to proceed with installation of production piles for LNG Storage Tanks 1 and 2 (Jan. 26, 2024) (Accession No. 20240126-3051), Docket No. CP16-454-000; Letter to Rio Grande, LLC granting the December 19, 2023 request to proceed with installation of

underground firewater piping (Jan. 26, 2024) (Accession No. 20240126-3053), Docket No. CP16-454-000; Rio Grande LNG Monthly Status Report No. 50 (filed Feb. 1, 2024), Docket No. CP16-454-000.

8. Permittees are required to comply with the terms and conditions of their environmental permits, including those applicable to cessation of operations. These measures exist to ensure the safety of the public and the environment.

9. Permits held by Rio Grande and its Contractor, Bechtel, contain maintenance requirements. Halting the Project would still require Rio Grande to stabilize the site within a specific timeframe, conduct routine inspections, and repair any deficiencies observed. Permits simply do not terminate due to a Stay. In the example of the Construction General Permit for Stormwater, the permit cannot be terminated until final stabilization is achieved.

10. Once the Project resumed construction again, Rio Grande would then have to re-disturb the aforementioned stabilized areas. This includes vegetation clearing and unnecessarily increasing the potential of wildlife encounters. The site was cleared in accordance with permit conditions without harm to wildlife. Double-handling of soil degrades its biophysical properties rendering it less productive for future restoration activities.

11. Demobilization and remobilization would also increase the temporary construction emissions over the level that would occur without a stay. A stay may

result in the demobilization of equipment from site. Each piece of equipment (*e.g.*, generators, excavators, articulating dump trucks, pile driving rigs, light plants, etc.) arrives on site via flatbed truck and requires adequate planning to minimize disruption to the local area. Demobilization due to a stay unnecessarily increases the amount of traffic generated. The traffic increase would increase emissions associated with extra demobilization and remobilization, including any potential for ocelot vehicle strikes.

12. The construction activities are subject to dozens of conditions FERC has imposed to mitigate environmental harms, and which FERC has found reduce any environmental harms to acceptable levels. The FERC order includes conditions specific to environmental protection (Conditions 22, 23, 25, 26, 28, 29, 30) As noted in the FEIS, Rio Grande conducted many agency consultations per the NEPA review process. Rio Grande obtained a Section 10/404 permit from US Army Corps of Engineers, with a goal of “no net loss” of wetlands in the United States. As part of the permitting process, Rio Grande developed a mitigation program that includes:

- a. protection in perpetuity of over 3,000 acres (1,214 ha) of land in the vicinity of the Rio Grande Project at two locations:
 - the 1,531 acres (620 ha) Miradores Mitigation Site which is protected via a conservation easement held by the Texas Land Conservancy. Restoration activities at the Miradores Mitigation

Site include the reestablishment, enhancement, and preservation of 371 acres of coastal prairie wetlands and 1,155.28 acres of thorn scrub upland habitat. And

- the 1,500 (607 ha) Loma Ecological Preserve Site, a natural area encompassing mudflats, mangrove marsh, high marsh and rare South Texas Loma habitats which is now permanently protected under a conservation easement held by the Biome Stewardship Foundation.

b. a significant voluntary habitat conservation measure for ocelot and jaguarundi. Rio Grande purchased the 1,050 acre Dulaney Farms tract and donated the property to the adjacent Laguna Atascosa National Wildlife Refuge in December 2020. This land had been cleared and converted to agricultural use and is now undergoing restoration to native thorn scrub habitat. Rio Grande also purchased 24,000 native thorn scrub shrub species, which have already been planted as part of the restoration effort. These mitigation projects included consultation with multiple applicable agencies, including the U.S. Environmental Protection Agency and the U.S. Fish and Wildlife Service (“FWS”).

13. Part of the NEPA consultation process for the project included a consultation with FWS under Section 7 of the Endangered Species Act. FWS issued

us a Biological Opinion, with which we continue to comply. No ocelots have been sighted and all personnel are trained on the potential for their presence.


14. Our Environmental Inspector conducts daily site inspections of the perimeter silt fence. Ahead of clearing, we had a team of biologists on site for hazing. Texas Parks and Wildlife Division (“TPWD”) conducted a site visit on December 8, 2022 and noted the implementation of several best management practices certified weed-free hay bales, silt fence, isolated pedestrian walkways, clearly delineated wetland areas), several of which had been recommended by TPWD. Our Texas Tortoise program remains in place with nearly 300 tortoises and horned lizards translocated to the Texas A&M University-Kingsville’s South Pasture Facility and San Antonio Zoo, respectively.

15. During dredging of the MOF we had a rotating team of protected species observers onboard 24/7. As per requirements in Condition 26, and from National Marine Fisheries Service, we provided training regarding the West Indian Manatee.

16. There is no basis for any suggestion that any delays in the project are attributable to Rio Grande. Rio Grande has proceeded as soon as it has received the required authorizations to proceed. Rio Grande’s proposal to incorporate carbon capture facilities, which is being pursued in a separate docket, has not delayed the project schedule. Delays in construction of the Rio Grande LNG Terminal have

been for reasons out of Rio Grande's control, including effects of the multiple litigation processes instituted by Sierra Club.

I declare under penalty of perjury under 28 U.S.C. § 1746 that the foregoing is true and correct.



Alex Thompson